

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BANK OF AMERICA CORP.
SECURITIES, DERIVATIVE AND
EMPLOYMENT RETIREMENT INCOME
SECURITY ACT (ERISA) LITIGATION

Master File No. 09 MDL 2058 (PKC)

ECF CASE

This Document Relates To:
The Consolidated Securities Action

Electronically Filed

DECLARATION OF JAMIE L. HALAVAIS

JAMIE L. HALAVAIS, an attorney duly admitted to practice before this Court and the Courts of the State of New York, hereby declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am associated with the law firm of Dechert LLP, counsel for defendant John A. Thain.

As such, I am fully familiar with the facts and circumstances set forth herein. I respectfully submit this declaration in support of defendant John A. Thain's Motion for Summary Judgment in the above-captioned action.

2. Annexed hereto as Exhibit 1 is a true and correct copy of excerpts of the Merrill Lynch & Co., Inc. ("Merrill") Proxy Statement (Schedule 14A), November 3, 2008.

3. Annexed hereto as Exhibit 2 is a true and correct copy of excerpts of the Transcript of the Deposition of John A. Thain, sworn to March 22, 2012.

4. Annexed hereto as Exhibit 3 is a true and correct copy of excerpts of the Transcript of the Deposition of Gregory Fleming, sworn to February 23, 2012.

5. Annexed hereto as Exhibit 4 is a true and correct copy of excerpts of the Transcript of the Deposition of Teresa Brenner, sworn to December 13, 2011.

6. Annexed hereto as Exhibit 5 is a true and correct copy of excerpts of the Transcript of the Deposition of Neil Cotty, sworn to March 15, 2012.
7. Annexed hereto as Exhibit 6 is a true and correct copy of excerpts of the Transcript of the Deposition of Kenneth Lewis in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to October 30, 2009.
8. Annexed hereto as Exhibit 7 is a true and correct copy of excerpts of the Transcript of the Deposition of Thomas May, sworn to December 21, 2011.
9. Annexed hereto as Exhibit 8 is a true and correct copy of excerpts of the Transcript of the Deposition of Rosemary Berkery in the New York Attorney General Investigation *In re: Executive Compensation Investigation Bank of America – Merrill Lynch*, sworn to September 23, 2009.
10. Annexed hereto as Exhibit 9 is a true and correct copy of excerpts of the Transcript of the Deposition of Rosemary Berkery in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to December 9, 2009.
11. Annexed hereto as Exhibit 10 is a true and correct copy of excerpts of the Transcript of the Deposition of Richard Alsop, sworn to December 22, 2011.
12. Annexed hereto as Exhibit 11 is a true and correct copy of excerpts of the Transcript of the Deposition of Gregory Fleming in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to October 22, 2009.
13. Annexed hereto as Exhibit 12 is a true and correct copy of the Statement of Timothy Mayopoulos before the United States Congress dated November 16, 2009.

14. Annexed hereto as Exhibit 13 is a true and correct copy of excerpts of the Transcript of the Deposition of Jonathan Santelli in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to December 18, 2009.

15. Annexed hereto as Exhibit 14 is a true and correct copy of excerpts of the Transcript of the Deposition of Nicholas Demmo, sworn to March 5, 2012.

16. Annexed hereto as Exhibit 15 is a true and correct copy of excerpts of the Transcript of the Deposition of Gregory Curl, sworn to January 22, 2012.

17. Annexed hereto as Exhibit 16 is a true and correct copy of excerpts of the Transcript of the Deposition of Jeffrey Crandall in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to November 30, 2009.

18. Annexed hereto as Exhibit 17 is a true and correct copy of excerpts of the Transcript of the Deposition of Nicholas Demmo in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to November 16, 2009.

19. Annexed hereto as Exhibit 18 is a true and correct copy of an email from Nicholas Demmo to Teresa Brenner, dated September 15, 2008 and bates-stamped BAC-502-WLRK 00187636.

20. Annexed hereto as Exhibit 19 is a true and correct copy of excerpts of the Bank of America ("BAC") (Form 8-K), September 15, 2008.

21. Annexed hereto as Exhibit 20 is a true and correct copy of excerpts of the Transcript of the Deposition of Jeffrey Crandall, sworn to January 12, 2012.

22. Annexed hereto as Exhibit 21 is a true and correct copy of excerpts of the Disclosure Schedules to Agreement and Plan of Merger by and between Merrill Lynch & Co., Inc. and Bank of America Corporation, dated September 15, 2008.

23. Annexed hereto as Exhibit 22 is a true and correct copy of excerpts of the Transcript of the Deposition of Nicholas Demmo in *In re: Bank of America Corp. Stockholder Deriv. Litig*, C.A. No. 4307-CS, sworn to January 13, 2012.

24. Annexed hereto as Exhibit 23 is a true and correct copy of excerpts of the Transcript of the Deposition of Timothy Mayopoulos in *In re: Bank of America Corp. Stockholder Deriv. Litig*, C.A. No. 4307-CS, sworn to December 22, 2011.

25. Annexed hereto as Exhibit 24 is a true and correct copy of an email from Mark Veblen to Teresa Brenner dated September 15, 2008 and bates-stamped BAC-ML-NYAG-502-00005618.

26. Annexed hereto as Exhibit 25 is a true and correct copy of an email from Ross Fieldston to Teresa Brenner, *et al.*, dated September 20, 2008 and bates-stamped BAC-502-SS 00082986.

27. Annexed hereto as Exhibit 26 is a true and correct copy of an email from Craig Culbert to Richard Alsop, *et al.*, dated September 24, 2008 and bates-stamped BAC-502-SS 00058964.

28. Annexed hereto as Exhibit 27 is a true and correct copy of excerpts of the Transcript of the Deposition of Kenneth Lewis in *In re: Bank of America Corp. Stockholder Deriv. Litig*, C.A. No. 4307-CS, sworn to March 6, 2012.

29. Annexed hereto as Exhibit 28 is a true and correct copy of excerpts of the Transcript of the Deposition of Ed Herlihy in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to November 17, 2009.

30. Annexed hereto as Exhibit 29 is a true and correct copy of excerpts of the Transcript of the Deposition of Patricia Kuhn in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to December 21, 2009.

31. Annexed hereto as Exhibit 30 is a true and correct copy of excerpts of the Transcript of the Deposition of John Thain in *Sec. and Exch. Comm'n v. Bank of America*, 09-CV-6829, sworn to November 4, 2009.
32. Annexed hereto as Exhibit 31 is a true and correct copy of excerpts of the Merrill (Form 10-Q), May 5, 2008.
33. Annexed hereto as Exhibit 32 is a true and correct copy of excerpts of the Merrill (Form 10-Q), August 5, 2008.
34. Annexed hereto as Exhibit 33 is a true and correct copy of excerpts of the Merrill (Form 10-Q), November 4, 2008.
35. Annexed hereto as Exhibit 34 is a true and correct copy of Simon Bowers, *Wall Street banks in \$70bn staff payout*, The Guardian, October 17, 2008.
36. Annexed hereto as Exhibit 35 is a true and correct copy of Christine Harper and Alison Vekshin, *Frank Calls for 'Moratorium' on Wall Street Bonuses (Update2)*, Bloomberg, October 22, 2008.
37. Annexed hereto as Exhibit 36 is a true and correct copy of the transcript from *Fight For the Middle Class; Ohio Voting Problems*, (CNN television broadcast) October 23, 2008.
38. Annexed hereto as Exhibit 37 is a true and correct copy of Rachel Beck and Joe Bel Bruno, *No curbs on Wall Street pay despite meltdown*, Associated Press, October 24, 2008.
39. Annexed hereto as Exhibit 38 is a true and correct copy of Christine Harper and Serena Saitto, *Broken Securities Industry Still Has \$20 Billion to Pay Bonuses*, Bloomberg, October 27, 2008.
40. Annexed hereto as Exhibit 39 is a true and correct copy of excerpts of the Merrill (Form 8-K), December 5, 2008.

41. Annexed hereto as Exhibit 40 is a true and correct copy of excerpts of the Minutes of the December 8, 2008 Meeting of the Management Development and Compensation Committee of the Board of Directors (“MDCC”).

42. Annexed hereto as Exhibit 41 is a true and correct copy of excerpts of the December 8, 2008 MDCC 2008 Final VICP Pools and MP Recommendations.

43. Annexed hereto as Exhibit 42 is a true and correct copy of excerpts of the Transcript of the Deposition of John Thain in the New York Attorney General Investigation *In re: Executive Compensation Investigation Bank of America – Merrill Lynch*, sworn to February 19, 2009.

44. Annexed hereto as Exhibit 43 is a true and correct copy of Michael Flaherty, *Jobs axe hangs over investment banks in Asia*, Reuters, December 23, 2008.

45. Annexed hereto as Exhibit 44 is a true and correct copy of Michael Flaherty, *Asia bankers brace for job cuts*, New York Times, December 23, 2008.

46. Annexed hereto as Exhibit 45 is a true and correct copy of Greg Farrell, *Merrill’s troubles anger BofA executives*, Financial Times, January 16, 2009.

47. Annexed hereto as Exhibit 46 is a true and correct copy of Vesna Poljak, *Bonus blues at investment banks*, Australian Financial Review, January 20, 2009.

48. Annexed hereto as Exhibit 47 is a true and correct copy of excerpts of the Teacher Retirement System Of Texas’ Verified Answers And Objections To Bank Of America Corporation’s First Set Of Interrogatories dated September 6, 2011.

49. Annexed hereto as Exhibit 48 is a true and correct copy of excerpts of the Fjarde AP-Fonden’s Answers And Objections To Bank Of America Corporation’s First Set Of Interrogatories dated September 6, 2011.

50. Annexed hereto as Exhibit 49 is a true and correct copy of excerpts of Grant Mitchell's Answers And Objections To Bank Of America Corporation's First Set Of Interrogatories dated September 6, 2011.

51. Annexed hereto as Exhibit 50 is a true and correct copy of excerpts of the Ohio Public Employees Retirement System's Amended Verified Answers And Objections To Bank Of America Corporation's First Set Of Interrogatories dated September 15, 2011.

52. Annexed hereto as Exhibit 51 is a true and correct copy of excerpts of the State Teachers Retirement System Of Ohio's Verified Answers And Objections To Bank Of America Corporation's First Set Of Interrogatories dated September 6, 2011.

53. Annexed hereto as Exhibit 52 is a true and correct copy of excerpts of the Answers And Objections Of Stichting Pensioenfonds Zorg En Welzijn, Represented By PGGM Vermogensbeheer B.V. To Bank Of America Corporation's First Set Of Interrogatories dated September 6, 2011.

54. Annexed hereto as Exhibit 53 is a true and correct copy of excerpts of the Transcript of the Deposition of Agneta Wilhelmson Karemar, sworn to September 27, 2011.


55. Annexed hereto as Exhibit 54 is a true and correct copy of excerpts of the Transcript of the Deposition of John Finnegan, sworn to February 28, 2012.

56. Annexed hereto as Exhibit 55 is a true and correct copy of excerpts of the Transcript of the Deposition of Peter Kraus, sworn to January 18, 2012.

57. Annexed hereto as Exhibit 56 is a true and correct copy of excerpts of the Expert Report of Chad Coffman, CFA, dated March 16, 2012.

58. Annexed hereto as Exhibit 57 is a true and correct copy of excerpts of the Expert Rebuttal Report of Chad Coffman, CFA, dated April 29, 2012.

Dated: June 3, 2012
New York, New York



Jamie L. Halavais

14459374